



Steven W. Troxler  
Commissioner

North Carolina Department of Agriculture  
and Consumer Services  
*Veterinary Division*

R. Douglas Meckes, DVM  
State Veterinarian

June 2, 2016

All Wags Doggie Daycare and Boarding  
Attn: Mary Lisa Carmichael  
670 Griffith Road  
Charlotte, North Carolina 28217

**NOTICE OF CIVIL PENALTY**

**RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF TITLE 02, N.C.  
ADMINISTRATIVE CODE, CHAPTER 52J, SECTIONS .0102(1), .0204(e) and .0209(2)**

**AWS-CP-2016-6**

**Facility: All Wags Doggie Daycare and Boarding**

Dear Ms. Carmichael:

Pursuant to N.C. Gen. Stat. § 19A-40, I am issuing this notice to you that All Wags Doggie Daycare and Boarding is assessed a civil penalty of \$2,000.00 as provided in the enclosed Notice of Violations and Order.

With regard to the civil penalty, within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing with the N. C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to N.C. Gen. Stat. § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may present your offer to me. I can be contacted by telephone at (919) 707-3280. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.



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Additional information about your options is provided below:

### **PAYMENT**

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services  
Dr. Patricia Norris  
Director, Animal Welfare Section  
1030 Mail Service Center  
Raleigh, NC 27699-1030

### **APPEAL**

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. Gen. Stat. § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings. Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings  
6714 Mail Service Center  
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000. You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse  
North Carolina Department of Agriculture and Consumer Services  
Registered Agent and General Counsel  
1001 Mail Service Center  
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patricia Norris', written over a horizontal line.

Patricia Norris, DVM  
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, NCDA&CS  
Ms. Tina Hlabse, General Counsel, NCDA&CS  
Mr. Joe Reardon, Assistant Commissioner, NCDA&CS  
Christopher McLennan, Assistant Attorney General

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER SERVICES,  
VETERINARY DIVISION

IN THE MATTER OF  
ALL WAGS DOGGIE DAYCARE  
AND BOARDING

) NOTICE OF VIOLATIONS,  
) ASSESSMENT OF CIVIL  
) PENALTY  
)

) For Violations Of:  
) 02 N.C.A.C. 52J .0102(1)  
) 02 N.C.A.C. 52J .0204(e)  
) 02 N.C.A.C. 52J .0209(2)

Acting pursuant to N.C. Gen. Stat. §19A-40, Dr. Patricia Norris, Director of the Animal Welfare Section ("AWS"), Veterinary Division, North Carolina Department of Agriculture and Consumer Services (NCDA&CS) makes the following:

**FINDINGS OF FACT**

1. At all times pertinent to this matter All Wags Doggie Daycare and Boarding (the "kennel") is a boarding kennel licensed pursuant to N.C. General Statute §19A-28.
2. On October 12, 2015, AWS assessed a civil penalty against the kennel of \$1500.00 for violation of 02 North Carolina Administrative Code 52J .0102(1), .0204(e), and .0209(2).
3. On May 9, 2016, AWS Animal Health Technician Jay Blatche ("Inspector Blatche") visited the kennel as part of a complaint investigation. The records referenced in the body of this document are records gathered by Inspector Blatche during this investigation.
4. On arrival at the kennel on May 9, 2016 for the complaint investigation, Inspector Blatche found only one employee on the premises who met him up front. At that time, there were 5 dogs loose in the play area without supervision. The employee stated that at that time she was the only person present on the premises.
5. The complainant wrote that on March 12, 2016, a dog named Abby, was attacked by another dog named Dakota that was housed in the same kennel. Although they live in the same house, another person owns Dakota. The owner of Abby states that the person who signed in Abby specifically told the staff not to comingle the two dogs.
6. In oral statements, a kennel employee, John Britt, agreed that Abby had been attacked by Dakota while being housed and fed together in the same kennel. John stated that he transported Abby to the veterinary clinic after the attack. He also stated that Abby's owner had instructed kennel staff not to allow the dogs to play in the same play area.
7. Inspector Blatche requested the paperwork for the animals involved in the March 12, 2016 incident. The front staff employee could only provide the owner agreements. No record was present that documented written permission from the owner to allow contact with other animals. Inspector Blatche made an additional request to the kennel owner for the required paperwork. The kennel owner could not produce the required paperwork and stated that she knew the facility has paperwork problems.

8. Inspector Blatche requested a copy of the rabies vaccination certificates for the dogs involved in the March incident and again neither the owner nor the staff could locate the paperwork.
9. The complainant also alleged that the dog Dakota had been injured during a stay over the Thanksgiving weekend in November 2015. The kennel owner stated that she remembered the dog staying that weekend but denied knowing that the dog had been injured. Inspector Blatche requested the records for this visit. The kennel owner stated she did not have any records documenting the stay for Dakota in November.
10. A review of all of the paperwork the kennel had in its possession for the dogs Abby and Dakota show that no date of entry is present for either dog for any of their stays at the kennel, no signatures or address(es) of the person to whom the dogs were released are present, no dates of release are present, and the address for the owner of Abby is lacking.
11. During the site visit for this investigation, Inspector Blatche observed the pickup procedure for this kennel. He observed an owner arrive, request his dog, the front staff retrieving the dog and the owner leaving with the dog. At no time was any release paperwork filled out by the kennel staff, nor did the person to whom the dog was released provide a signature as required by 02 NCAC 52J .0102(1).

## **CONCLUSIONS**

As a result of this investigation, AWS finds that the kennel, either by act or omission, violated 02 North Carolina Administrative Code 52J .0102(1), .0204(e), and .0209(2). Furthermore AWS finds that the kennel has been previously issued a civil penalty for violation for 2 of 3 of the same NCAC regulations in October 2015. AWS hereby notifies the owner of the kennel that any future violation of these NCAC regulations will be considered willful disregard of the AWA and pursuant to N. C. General Statute §19A-30, may result in the suspension or revocation of the boarding kennel license for this facility.

(See Appendix for text of cited General Statutes and Administrative Codes)

## **CIVIL PENALTIES**

As required by N.C. General Statute § 19A-40 in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, All Wags Doggie Daycare and Boarding is assessed a civil penalty of:

- a) \$1,000.00 for 1 violation of North Carolina Administrative Code 52J .0204(e) [second violation]
- b) \$500.00 for 1 violation of North Carolina Administrative Code 52J .0209(2) [second violation]
- a) \$500.00 for 2 violations of North Carolina Administrative Code 52J .0102(1)

**\$2,000.00 TOTAL AMOUNT ASSESSED**

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Date

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Dr. Patricia Norris  
Director, Animal Welfare Section  
North Carolina Department of  
Agriculture & Consumer Services

## Appendix

### Relevant Statutes and Regulations

#### **§ 19A-30. Refusal, suspension or revocation of certificate or license.**

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect. (1977, 2nd Sess., c. 1217, s. 11; 1987, c. 827, s. 67.)

#### **§19A-40. Civil Penalties.**

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the



violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s.6: 1998-215,s.3.)

## **02 NCAC 52J .0102        RECORDS; BOARDING KENNELS**

Operators of boarding kennels shall maintain records of all dogs and cats showing the following:

- (1) name and address of owner or person responsible for animal, the date of entry and signature and address of individual to whom animal is released and the date of release;
- (2) description of animal including breed, sex, age and color marking; and
- (3) veterinary care provided while boarded, which shall include date, times, description of medication (including name and dosage) and initials of person administering product or procedure.

*History Note:*     Authority G.S. 19A-24;  
                      Eff. April 1, 1984;  
                      Amended Eff. January 1, 2005.

## **02 NCAC 52J .0204        PRIMARY ENCLOSURES**

(e) If more than four dogs are housed in a common area or enclosure, then there must be at least one person supervising each 10 dogs housed within each enclosure or common area.

*History Note:*     Authority G.S. 19A-24;  
                      Eff. April 1, 1984;  
                      Amended Eff. January 1, 2005; April 1, 1985.

## **02 NCAC 52J .0209        CLASSIFICATION AND SEPARATION**

Animals housed in the same primary enclosure shall be maintained in compatible groups, with the following additional restrictions:

- (2) In boarding kennels, animals of different owners shall not have contact with other animals, unless written permission is obtained from the animal's owner. Any dog or cat exhibiting an aggressive disposition shall be housed individually in a primary enclosure.

*History Note:*     Authority G.S. 19A-24;  
                      Eff. April 1, 1984;  
                      Amended Eff. January 1, 2005.